UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,368	05/25/2001	Leonard S. Hand	6169-202	3711

7590   05/03/2004

Gregory A. Nelson
Akerman Senterfitt
222 Lakeview Avenue, Fourth Floor
P.O. Box 3188
West Palm Beach, FL 33402-3188

EXAMINER
ZHOU, TING

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 March 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3-5,7-11,13-21,23,24,26-28,30-34 and 36-46_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1, 3-5, 7-11, 13-21, 23-24, 26-28, 30-34 and 36-46_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   The amendment filed on 10 March 2004 have been received and entered. Claims 1-46 as amended are pending in the application. Of the above claims, claims 2, 6, 12, 22, 25, 29, 35 and 45 have been cancelled by the applicant and therefore withdrawn from consideration. Claim 46 has been added.

Claim Objections

2.   Claims 16 and 39 are objected to because of the following informalities: the use of "providing a graphical representation of each one said of components" on line 3 of claims 16 and 39 is grammatically incorrect. It is advised that the phrase be changed to -- providing a graphical representation of each one of said components --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

3.   Claims 1, 3-5, 7-11, 13-21, 23-24, 26-28, 30-34 and 36-45 are rejected under 35

U.S.C. 102(e) as being anticipated by Petty et al. U.S. Patent 6,546,263.

Referring to claims 1, 10, 19, 24, 33 and 42, Petty et al. teach a method and computer

readable storage comprising defining metrics, each of the defined metrics corresponding to at

least one entity in the dynamic data space and characterizing the performance of the component

in a content delivery network (providing indication, via icons, of the status of operating

conditions of a mobile terminal) (column 1, lines 38-46); defining a maximum and minimum

value for each of the metrics (using the battery icon and signal strength icon for example, there is

a maximum value of full charge and minimum value of not charged for the battery icon and

similarly, for the signal strength icon, there is a maximum value of full signal strength and

minimum value of unsatisfactory signal strength) (column 4, lines 14-24 and 32-42); quantizing

discrete levels between the defined maximum and the defined minimum value (discrete degrees

of values for the icons; for example, for the battery status icon, there are discrete levels such as ¾

charge, ½ charge and ¼ charge) (column 4, lines 14-24 and 32-42); assigning a unique indicator

to each of the quantized discrete levels; determining a value for each of the defined metrics and

responsively determining the unique indicator corresponding to the value (determining a display

representing each of the levels of values of the icons and displaying the icons accordingly)

(column 4, lines 14-24 and column 7, lines 50-65); receiving a selection of particular ones of the

entities via a graphical user interface, and providing graphical display representations of the

unique indicators associated with the selected entities, the graphical interface changing to reflect

changes to the selections (upon receiving status changes of the operating condition, the

appropriate icon is selected by the GUI application and provided on the display) (column 8, lines

40-67 and column 9, lines 1-20). This is further recited in column 12, lines 34-51.

Referring to claims 3, 13, 21, 26, 36 and 44, Petty et al. teach the assigning step

comprises designating a user configurable unique indicator selected from the group consisting of

a different color, a different shade and a different pattern to each of the quantized discrete level

(column 4, lines 32-42). This is further shown in Figures 1A, 1B and 1C.

Referring to claims 4, 14, 27 and 37, Petty et al. teach the step of determining the value

comprises the steps of monitoring at least one entity with at least one software agent remotely

located from a machine upon which the graphical user interface resides, and the software agents

interrogating each entity within the dynamic data space for the determined value (the steps can

be performed by separate software and then integrated with the machine) (column 7, lines 5-38).

Referring to claims 5 and 28, Petty et al. teach the step of determining the value further

comprises automatically updating the graphical display representations of the selected ones of

the determined values in the graphical user interface (updating the display of status icons to

reflect changes to the operating conditions, such as changing battery power and signal strength)

(column 8, lines 40-67, column 9, lines 1-20 and column 12, lines 34-51).

Referring to claims 7, 17, 30 and 40, Petty et al. teach the selected ones of the metrics are selected from a list of metrics displayed within the graphical user interface (column 9, lines 30-40).

Referring to claims 8, 15, 31 and 38, Petty et al. teach updating the graphical representations dynamically based upon subsequent value determinations (updating the display of status icons to reflect changes to the operating conditions, such as changing battery power and signal strength) (column 8, lines 40-67, column 9, lines 1-20 and column 12, lines 34-51).

Referring to claims 9, 18, 32 and 41, Petty et al. teach the determining the value and providing steps are configurably periodic (repeatedly determining the status of the operating conditions and displaying the determined values) (column 8, lines 40-67 and column 12, lines 34-51).

Referring to claims 11, 20, 34 and 43, Petty et al. teach the defined metrics are selected from the group consisting of CPU load, run queue size, memory usage, connections, and disk I/O usage (column 4, lines 15-60).

Referring to claims 16 and 49, Petty et al. teach providing a graphical representation of each one of the components, each one of the components represented by a node in the graphical display (each status component of the system is represented by an icon, such as the battery icon and signal strength icon) (column 4, lines 15-60). This is further shown in Figure 1A.

Referring to claim 23, Petty et al. teach a system comprising a plurality of software agents for retrieving values for metrics from the components within a heterogeneous CDN, a processor remotely located from the software agents for determining a user configurable graphical representation for each of said retrieved values (the components of the system,

including retrieving values and determining representations for indicating the operating status of

elements of the system, such as battery power, can be implemented by a plurality of software and

integrated with the processor located on the main system) (column 7, lines 5-40 and column 12,

lines 34-51), wherein different graphical representations are determined for different quantized

ranges of the retrieved values (different status icons are used for the different levels of

performance for each parameter; using the battery status icon as an example, different

representations are displayed for each quantized range, such as full charge, ¾ charge, etc.)

(column 4, lines 15-25 and 32-42), and a graphical user interface for presenting the determined

graphical representation, the graphical user interface having a selectable list of the metrics, the

graphical user interface changing to reflect changes to the selections (upon receiving status

changes of the operating condition, the appropriate icon is selected by the GUI application and

provided on the display) (column 8, lines 40-67 and column 9, lines 1-20). This is further recited

in column 12, lines 34-51.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petty et al. U.S.

Patent 6,546,263, as applied to claim 1 above, and further in view of Kodosky et al. U.S. Patent

4,901,221.

Referring to claim 46, Petty et al. teach all of the limitations as applied to claim 1 above.

Specifically, Petty et al. teach a maximum and minimum value for each of the metrics (using the

battery icon and signal strength icon for example, there is a maximum value of full charge and

minimum value of not charged for the battery icon and similarly, for the signal strength icon,

there is a maximum value of full signal strength and minimum value of unsatisfactory signal

strength) (Petty et al.: column 4, lines 14-24 and 32-42). However, Petty et al. fail to teach the

maximum and minimum values are user configurable values. Kodosky et al. teach the display of

icons representing system components and defining a maximum and minimum value for the

icons representing the system components, or metrics (Kodosky et al.: column 3, lines 66-68 and

column 4, lines 1-7 and column 17, lines 17-27) similar to that of Petty et al. In addition,

Kodosky et al. further teach the maximum and minimum values for each metric being user

configurable values (the maximum and minimum values for the icons are inputted by the user)

(Kodosky et al.: column 17, lines 17-27). It would have been obvious to one of ordinary skill in

the art, having the teachings of Petty et al. and Kodosky et al. before him at the time the

invention was made, to modify the maximum and minimum values for icons representing system

components of Petty et al. to include the user configurable maximum and minimum values

taught by Kodosky et al. One would have been motivated to make such a combination in order

to give users more control in designing elements to represent system components, ensuring that

the final display of the component representations will be satisfactory to the user.

5.   The prior art made of record on form PTO-892 and not relied upon is considered

pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider

these references fully when responding to this action. The documents cited therein teach similar

methods for monitoring system components.

Response to Arguments

6.   Applicant's arguments with respect to claims 1-46 have been considered but are moot in

view of the new ground(s) of rejection.

7.   Applicant's amendments changed the scope of the claims and necessitated the new

ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set

forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
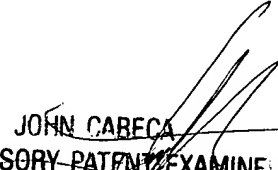
final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ting Zhou whose telephone number is (703) 305-0328. The

examiner can normally be reached on Monday - Friday 8:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca can be reached on (703) 308-3116. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 22, 2004

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100